

California Regional Water Quality Control Board
Santa Ana Region

STAFF REPORT

July 14, 2006

ITEM: * 9

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Tim and Cheryl Aday, 2454 Electric Avenue, TPM 17607, San Antonio Heights, San Bernardino County, APN 0200-133-27

DISCUSSION:

Mr. & Mrs. Aday contacted Board staff to request approval for the use of a second home utilizing a septic system at Tentative Parcel Map 17607, 2454 Electric Avenue, San Antonio Heights, San Bernardino County. The property is just over one-half acre in size (25,700 sq. ft. or 0.59-acre gross). Mr. & Mrs. Aday own the lot and currently there is a single-family home at the site served by a septic tank subsurface disposal system for the discharge of sanitary wastes. This area of the County is unsewered.

Mr. & Mrs. Aday propose to subdivide the lot into two separate lots, construct a new single family home on the newly created lot, and install a septic tank-subsurface disposal system to serve this new home.

On October 13, 1989, the Regional Board adopted a Basin Plan amendment to incorporate minimum lot size requirements (MLSRs) for septic tank-subsurface disposal system use. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems found in the groundwaters of the Region. The MLSRs stipulate that new developments for which on-site subsurface disposal system use is proposed must have a minimum of one-half acre of land per dwelling unit. To satisfy these requirements, Mr. & Mrs. Aday's proposed dwelling units would each require one half-acre minimum lot size. With a density of 0.295 acres per dwelling unit/lot, Mr. and Mrs. Aday's proposal does not comply with the MLSRs.

The MLSRs specify that project proponents may propose an alternative treatment system for sewage disposal as the basis for an exemption from the minimum lot size requirements. Such a proposal must be reviewed on a case-by-case basis and submitted to the Regional Board for consideration. As stated above, Mr. and Mrs. Aday are proposing the use of an alternative treatment system to serve the new single family home. The system being proposed is an aeration type activated sludge treatment system called "MicroFAST 0.5", which is designed to accommodate treatment of 450 gallons per day of residential wastewater.

According to materials provided to Board staff by the Adays and the MicroFAST manufacturer, this system is designed to provide advanced treatment of wastewater, including clarification, aeration, nitrification/de-nitrification and activated sludge. The documentation submitted indicates a total nitrogen reduction of approximately 70 percent. The product water would be discharged to a leachfield. Mr. and Mrs. Aday propose to enter into a maintenance agreement with a qualified engineer for the operation of this alternative system. In addition, Mr. and Mrs. Aday have also agreed to conduct quarterly monitoring of the system for nitrates. San Bernardino County has advised Regional Board staff that Mr. and Mrs. Aday will be required to obtain an annual permit for the operation of the alternative system and that the County will inspect the system annually to determine if the alternative system is operating as required.

It should also be noted that should the alternative disposal system not operate as required, Mr. and Mrs. Aday will eliminate the alternative system and will implement an acceptable offset program, as provided by the MLSRs.

RECOMMENDATION:

Approve Mr. and Mrs. Aday's request for an exemption from the minimum lot size requirements based on the use of an alternative disposal system, with the following stipulations: 1) Mr. and Mrs. Aday will enter into an agreement with a qualified engineer for the operation and maintenance of the alternative system. A copy of this agreement shall be submitted to the Regional Board; 2) Mr. and Mrs. Aday will conduct quarterly sampling for one year to determine the nitrate (as N) concentration in the effluent and submit those analyses to the Regional Board office within 30 days after such sampling and analysis has occurred; 3) Mr. and Mrs. Aday shall operate the alternative treatment system so as to assure consistent compliance with 5 mg/L nitrate as nitrogen to assure compliance with the objective for the Chino North groundwater management zone; 4) Mr. and Mrs. Aday shall obtain an annual permit from the County Health Department for the operation of the alternative system, and, 5) Should Mr. and Mrs. Aday sell this property, they are required to disclose all of the conditions of approval stipulated in 1 through 4, above, to the new property owner(s). Mr. and Mrs. Aday shall also advise the Regional Board and San Bernardino County Environmental Health in writing of new ownership and confirm that the disclosures identified above have been made.¹ In the event that conditions 1-5 are not satisfied, Mr. and Mrs. Aday shall implement a program acceptable to the Executive Officer to offset septic system discharges; the program shall provide for the sewer connection of a dwelling unit that would not otherwise be required to connect. The substantive requirements of conditions 1, 3, 4, 5 and 2 (if one year of monitoring data are not available prior to the sale of the property) shall be fulfilled by new owners of the property should the Adays sell it.

¹ It should be noted that San Bernardino County requires the recordation of an alternative system with the property deed, providing additional assurance that disclosure to buyers is provided. Alternative systems are then permitted for the life of the system and the permit must be renewed annually by the property owner.

Comments were solicited from the following agencies:

State Water Resources Control Board, Office of the Chief Counsel – Jorge Leon
San Bernardino County Environmental Health Services – Corwin Porter/Scott Rose
San Bernardino County Department of Building and Safety – Barbara Johnston